

United States
Circuit Court of Appeals
For the Ninth Circuit.

MOK NUEY TAU, by MOK JOCK,
Appellant,
vs.
EDWARD WHITE, as Commissioner of Immigra-
tion at the Port of San Francisco, California,
Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
First Division.

Filed

MAY 22 1917

F. D. Monckton,
Clerk.



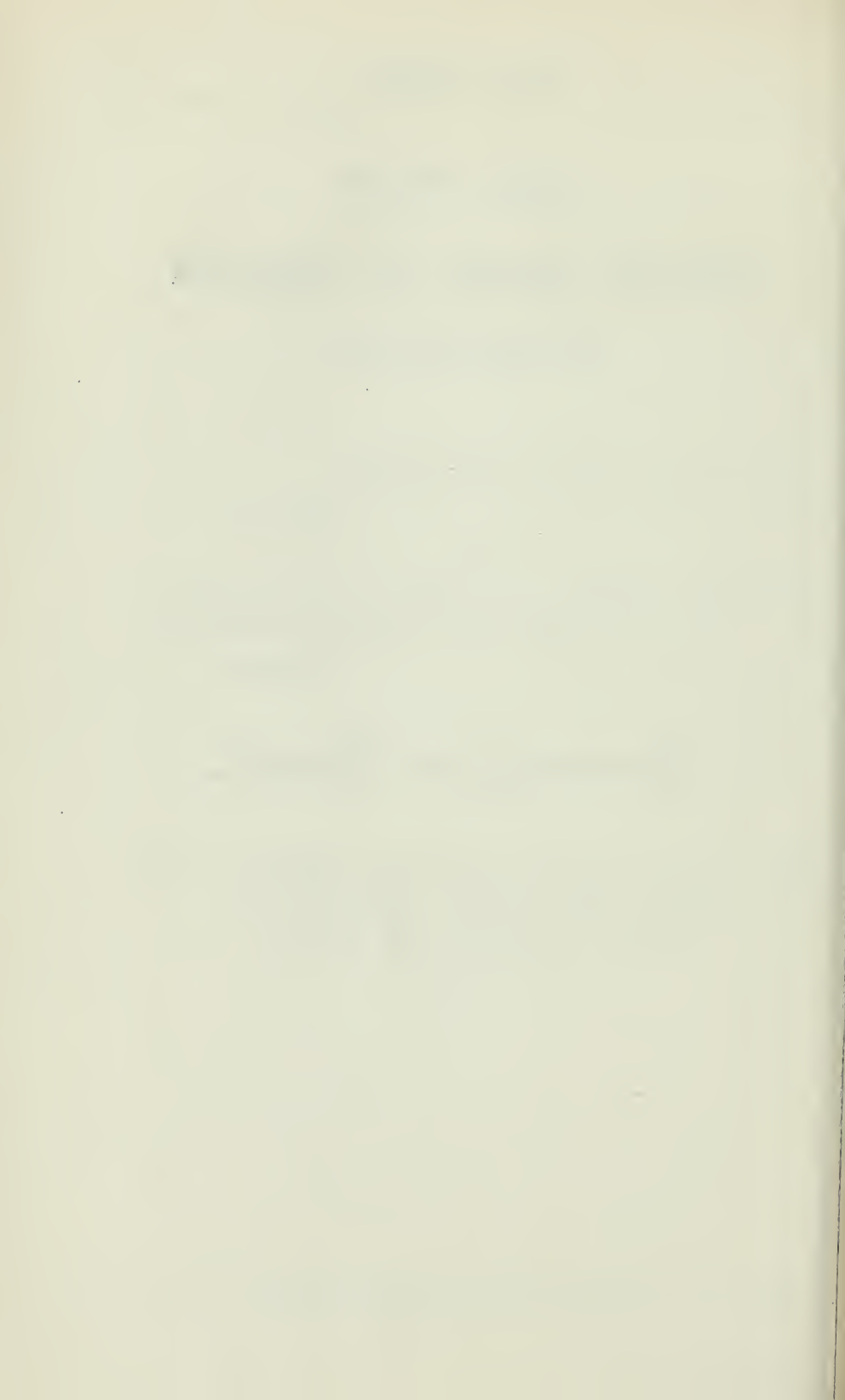
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*In the Southern Division of the District Court of the
United States, Northern District of California,
First Division.*

No. 16,104.

In the Matter of MOK NUEY TAU, on Habeas
Corpus.

Names and Addresses of Attorneys.

For the Detained: GEO. A. MCGOWAN, Esq., San
Francisco, Cal.

For the Respondent: U. S. ATTORNEY, San Fran-
cisco, Cal.

*District Court of the United States, in and for the
Northern District of California, Southern Divi-
sion, First Division.*

No. 16,104.

In the Matter of the Application of MOK NUEY
TAU, on Habeas Corpus.

Praeceptum for Transcript on Appeal.

To the Clerk of the Said Court:

Sir: Please make up Transcript of Appeal in the
above-entitled case, to be composed of the following
papers, to wit:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause.
3. Demurrer to Petition.
4. Minute Order Regarding Immigration Rec-
ord.
5. Judgment and Order Dismissing Order to
Show Cause and Denying Petition for Writ.

6. Notice of Appeal.
7. Petition for Appeal.
8. Assignment of Errors.
9. Order Allowing Appeal and Releasing on Bond.
10. Citations on Appeal—Original and Copy.
11. Order Extending Time to Docket Case.
12. Stipulation and Order Regarding Immigration Record.
13. Appearance Bond.
14. Clerk's Certificate.

GEO. A. MCGOWAN,

Attorney for Petitioner. [1*]

Due service and receipt of a copy of the within praecipe is hereby admitted this 15th day of January, 1917.

JNO. W. PRESTON,

U. S. Attorney, Northern District of California,

Attorney for Respondent.

[Endorsed]: Filed Jan. 15, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

*In the District Court of the United States, in and
for the Northern District of California, South-
ern Division, First Division.*

No. 16,104.

In the Matter of MOK NUEY TAU, on Habeas
Corpus.

*Page-number appearing at foot of page of original certified Transcript of Record.

Petition for Writ.

To the Honorable M. T. DOOLING, United States District Judge, in and for the Northern District of California, Now Presiding in the Above-entitled Court:

It is respectfully shown by the petition of Mok Jack:

That Mok Nuey Tau, hereinafter referred to as the detained, is unlawfully imprisoned, detained, confined and restrained of his liberty under the order of and by the direction of the Secretary of the Department of Labor by Edward White, Commissioner of Immigration for the Port of San Francisco at the Immigration Station at Angel Island, County of Marin, or at some other place within the State and Northern District of California, Southern Division thereof. That the said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit:

That it is claimed by the said Secretary and the said Commissioner that the detained is an alien Chinese person who has been found within the United States in violation of the provisions of a law of the United States, to wit, the Chinese Exclusion or Restriction Laws or Acts, and that he was therefore subject to be taken into custody and returned to the country whence he came under section 21 of the Immigration Act approved February 20, 1907.

That the said Commissioner now holds the said detained in [3] custody under a warrant of deportation of the said Secretary of Labor, within the

State and Northern District of California, Southern Division thereof, and it is the purpose and intention of the said Commissioner to execute the said warrant of deportation by causing the detained to be deported upon the SS. "China," sailing from the port of San Francisco, at 1:00 o'clock P. M. on October 10, 1916, and unless this Court intervene the said detained will be carried away from his domicile within the United States, and deprived of his rights, as in this petition hereinafter expressly set forth.

Your petitioner alleges that the detained does not come within the restrictions or provisions of said Immigration Act. But on the contrary your petitioner alleges that the finding of said Secretary of Labor that the detained violated the Chinese Exclusion and Restriction Acts by presenting what the Secretary claims to be fraudulent proof of his said exempt status, is in excess of the jurisdiction, powers and authority of the said Secretary, and particularly is in violation of the Chinese Exclusion and Restriction Acts, which said acts provide that Chinese persons found unlawfully within the United States shall be arrested and accorded a trial before a United States Justice, Judge or Commissioner; and that the said Secretary of Labor is not one of the judicial officers enumerated in said acts as having authority to determine the question of the legality or illegality of the residence of a Chinese person charged with being illegally within the United States: Your petitioner further alleges that the action of the said Secretary of Labor in

assuming jurisdiction over the said detained and in issuing said warrant of deportation acted in violation of the provisions of section 43 of the said General Immigration Laws hereinbefore more particularly described. [4]

Your petitioner further alleges, that the said detained, though a person of Chinese antecedents, is not an alien, but is a citizen of the United States, and that his status as a citizen of the United States has been determined by the immigration authorities for the Port of San Francisco, and was so determined when the said detained was incoming passenger No. 14776/4-26, ex. SS. "Mongolia," which arrived at the Port of San Francisco on the 26th day of October, 1915, and thereafter upon the 9th day of November, 1915, the said detained was permitted to enter the United States, as a citizen thereof by the Commissioner of Immigration for the Port and District of San Francisco, and that the said detained has continuously been and now is a resident of the United States, as a citizen thereof, and that he is deprived of his liberty herein, in violation of the provisions of Article 5, in amendment to the Constitution of the United States in this, that he is deprived of his liberty without due process of law, and that the action of the Secretary of Labor, in issuing said warrant of deportation, and the action of the said Commissioner of Immigration in holding the detained in custody thereunder, is in violation of the power and authority conferred upon each of said officers, and their said action in the premises is without statutory authority, and in excess of the

powers and authority conferred upon them by the statutes in such cases made and provided, and the said warrant of deportation is for said reason null and void, and the detention of the detained thereunder without due process of law, and that the detained as such citizen of the United States of America cannot be deprived of his liberty save by due process of law after a fair hearing before the judicial branch of the Government of the United States, which said hearing before the judicial branch of the Government [5] of the United States has been denied him.

That your petitioner further alleges upon his information and belief that the alleged hearing upon which the said warrant of deportation was issued by the Secretary of Labor was unfair in this, that there was no evidence in said record to sustain the conclusion and finding of the Secretary of Labor that the detained is an alien and his conclusion that the detained, when he entered the United States, as a citizen thereof, did so fraudulently, is unsupported by the evidence and said conclusion or finding of the said Secretary rests upon conjecture and suspicion, and not upon evidence, and that there was no substantial or other evidence to sustain the said order of deportation made by the said Secretary, and that for said reason the said order of deportation is arbitrary and unfair, and subject to judicial review.

That your petitioner Mok Jack, is the father of the above detained; that your petitioner is a native-born citizen of the United States of America, and has continuously been domiciled therein since your

affiant last re-entered the United States, when he was incoming passenger on the "America Maru," which arrived at the port of San Francisco, about during the months of October or November, 1903, and that your petitioner was thereupon permitted to enter the United States, as a native-born citizen thereof, and your affiant ever since has been a continuous resident thereof. That your affiant has not in his possession a copy of the immigration record or hearing used as a basis or foundation for the issuance of his said warrant of deportation herein against the said detained. That the said hearing took place in the State of Alabama and there is no copy of said record within the jurisdiction of this Court, and that it is impossible for your petitioner to obtain a copy thereof to file with this petition. That upon the information and belief of your petitioner the only copy of said [6] hearing is in the office of the Secretary of Labor, in Washington, D. C., and in the office of the immigration authorities in the State of Alabama, or where said hearing was conducted, and that the said detained has just been brought within the jurisdiction of this Court for the purpose of being deported as hereinbefore set forth, and that sufficient time has not elapsed between the bringing of the said detained within the jurisdiction of this Court and the contemplated deportation to enable your petitioner to procure a copy of said immigration record, and to delay the filing of the petition herein until a copy thereof could be obtained would render it impossible to present the petition to this Court in time to prevent the deportation herein sought to be prevented.

WHEREFORE YOUR PETITIONER PRAYS, that a writ of *habeas corpus* issue herein, as prayed for, directed to the said Commissioner commanding him to have the body of the said detained, together with the time and cause of his detention before your Honor at a time and place to be therein, in said order specified, to the end that the cause of the detention of the said detained may be inquired into, and that he may be discharged from custody.

MOK JACK,
Petitioner. [7]

UNITED STATES OF AMERICA.

State and Northern District of California,
City and County of San Francisco,—ss.

Mok Jack, being first duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof; that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

MOK JACK.

Subscribed and sworn to before me this 9th day of October, 1916.

[Seal] R. H. JONES,
Notary Public in and for the City and County of
San Francisco, State of California.

(CHINESE PICTURE.)

Photograph of Petitioner.

[Endorsed]: Filed Oct. 9, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [8]

*In the District Court of the United States, in and
for the Northern District of California, South-
ern Division, First Division.*

No. 16,104.

In the Matter of the Application of MOK NUEY
TAU, on Habeas Corpus.

Order to Show Cause.

Good cause appearing therefor and upon reading the verified petition on file herein, it is hereby ordered that Edward White, Commissioner of Immigration for the Port and District of San Francisco, appear before this Court on the 14 day of October, 1916, at the hour of 10 o'clock A. M. of said day, to show cause, if any he has, why a writ of *habeas corpus* should not be issued herein as prayed for; and that a copy of this order be served upon the said Commissioner, and a copy of said petition upon the United States Attorney.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration, as aforesaid, or whoever, acting under the orders of said Commissioner or of the Secretary of Labor, shall have the custody of the said Mok Nuey Tau are hereby ordered and directed to retain the said person within the custody of the said Commissioner of Immigration and within the jurisdiction of this Court until its further order herein.

Dated San Francisco, California, October 9, 1916.

M. T. DOOLING,

United States District Judge.

[Endorsed]: Filed Oct. 9, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [9]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 11th day of November, in the year of our Lord, one thousand nine hundred and sixteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 16,104.

In the Matter of MOK NUEY TAU, on Habeas Corpus.

(Minutes of Hearing on Order to Show Cause.)

This matter came on regularly this day for hearing of the order to show cause as to the issuance of a writ of *habeas corpus* herein. Geo. A. McGowan, Esq., was present as attorney for petitioner and detained. C. A. Ornbaun, Esq., Assistant United States Attorney, was present on behalf of respondent and filed demurrer to the petition herein and then presented the Immigration Records as to detained herein, which the Court ordered filed and marked Respondent's Exhibits "A" and "B" and that the same be considered as a part of the original petition filed herein. Said matter was then argued

by counsel for respective parties and ordered submitted. [10]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,104.

In the Matter of the Application of MOK NUEY TAU, on Habeas Corpus.

Demurrer to Petition for Writ of Habeas Corpus.

Now comes the respondent, Edward White, Commissioner of Immigration at the Port of San Francisco, in the State and Northern District of California, and demurs to the petition for a writ of *habeas corpus* in the above-entitled cause and for grounds of demurrer alleges

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of *habeas corpus*, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law and not statements of the ultimate facts.

WHEREFORE, respondent prays that the writ of *habeas corpus* be denied.

JNO. W. PRESTON,
United States Attorney.
CASPER A. ORNBAUN,
Asst. United States Attorney,
Attorneys for Respondent.

[Endorsed]: Filed Nov. 11, 1916. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy. [11]

*In the Southern Division of the United States Dis-
trict Court, for the Northern District of Cali-
fornia, First Division.*

No. 16,104.

In the Matter of MOK NUEY TAU, on Habeas
Corpus.

**(Order Sustaining Demurrer to and Denying
Petition for a Writ of Habeas Corpus.)**

GEORGE A. MCGOWAN, Esq., Attorney for
Petitioner.

JOHN W. PRESTON, Esq., United States At-
torney, and CASPER A. ORNBAUN,
Esq., Assistant United States Attorney,
Attorneys for Respondent.

The demurrer to the petition for a writ of *habeas
corpus* herein is sustained, and the said petition is
denied.

November 14th, 1916.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Nov. 14, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [12]

In the District Court of the United States, in and for the Northern District of California, Southern Division, First Division.

No. 16,104.

In the Matter of the Application of MOK NUEY TAU, on Habeas Corpus.

Notice of Appeal.

To the Clerk of the Above-entitled Court, and to the Hon. JOHN W. PRESTON, United States Attorney for the Northern District of California:

You and each of you will please take notice that Mok Nuey Tau, the detained herein, by Mok Joek, the petitioner herein, do hereby appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit from the order made and entered herein on the 14th day of November, 1916, sustaining the demurrer and denying the petition for a writ of *habeas corpus* filed herein.

Dated San Francisco, California, November 24th, 1916.

GEO. A. MCGOWAN,
Attorney for Petitioner Detained and Appellants
Herein. [13]

In the District Court of the United States, in and for the Northern District of California, Southern Division, First Division.

No. 16,104.

In the Matter of the Application of MOK NUEY TAU, on Habeas Corpus.

Petition for Appeal.

Comes now Mok Nuey Tau, the detained, by Mok Jock, the petitioner, who are appellants herein, and say:

That on the 14th day of November, 1916, the above-entitled court made and entered its order denying the petition for a writ of *habeas corpus* as prayed for and filed herein, in which said order certain errors are made to the prejudice of the appellants herein, all of which will more fully appear from the assignment of errors filed herein:

WHEREFORE these appellants pray that an appeal may be granted in their behalf to the Circuit Court of Appeals of the United States for the Ninth *District* for a correction of the errors so complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit. It is further prayed that during the pendency of the said appeal, the said Mok Nuey Tau may be granted his liberty and remain at large upon a bond in the sum of \$1,000, conditioned that he remains within the

United States and renders himself in execution of whatever judgment is finally entered herein.

Dated San Francisco, California, November 24th, 1916.

GEO. A. MCGOWAN,
Attorney for Petitioners, Detained and Appellants
Herein. [14]

*In the District Court of the United States, in and
for the Northern District of California, South-
ern Division, Division No. 1.*

No. 16,104.

In the Matter of MOK NUEY TAU, on Habeas
Corpus.

Assignment of Errors.

Comes now, Mok Nuey Tau, the detained herein, by Mok Jock, the petitioner herein, both of whom are appellants herein, by their attorney, George A. McGowan, Esquire, in connection with their petition, for a hearing herein, assign the following errors which they aver occurred upon the trial or hearing of the above-entitled cause, and upon which they will rely, upon appeal to the Circuit Court of Appeals, for the Ninth Circuit, to wit:

First. That the Court erred in denying the petition for a writ of *habeas corpus* herein.

Second. That the Court erred in not holding that it had no jurisdiction to issue a writ of *habeas corpus*, as prayed for in the petition herein.

Third. That the Court erred in not holding that the allegations contained in the petition herein, for

a writ of *habeas corpus*, were sufficient in law, to justify the granting and issuing of a writ of *habeas corpus*, as prayed for in said petition.

Fourth. That the Court erred in holding that the immigration authorities had accorded the appellant Mok Nuey Tau a fair hearing in the executive deportation proceeding.

Fifth. That the Court erred in not holding that the Secretary of Labor could not issue a warrant of arrest without reasonable cause and not supported by oath or affirmation. [15]

Sixth. That the Court erred in holding that a person of Chinese descent could be tried for being illegally within the United States, in violation of the Chinese Exclusion Laws, under the method and gauge as provided in sections 21 and 22 of the General Immigration Law.

Seventh. That the Court erred in holding that the Secretary of Labor had jurisdiction in an executive deportation proceeding against the appellant, Mok Nuey Tau, a person of Chinese descent, charged with a violation of the Chinese Exclusion and Restriction Acts and not having been charged with a violation of the General Immigration Law.

Eighth. That the Court erred in holding that the Secretary of Labor had jurisdiction in an executive deportation proceedings against the appellant, Mok Nuey Tau, a citizen of the United States.

Ninth. That the Court erred in holding that the Secretary of Labor could deport a citizen of the United States by charging that he was an alien when

there was no evidence before the Secretary to prove the alienage.

WHEREFORE, the appellants pray that the judgment and order of the United States District Court, in and for the Northern District of the State of California, made and entered herein in the office of the clerk of said court on the 14th day of November, 1916, discharging the order to show cause and dismissing the petition for a writ of *habeas corpus* be reversed and that this cause be remitted to the said lower court with instructions to discharge the said Mok Nuey Tau from custody, or grant him a new trial before the lower court, by directing the issuance of a writ of *habeas corpus*, as prayed for in said petition.

Dated San Francisco, California, November 24th, 1916.

GEO. A. MCGOWAN,
Attorney for Appellants. [16]

Due service and receipt of a copy of the within notice of appeal, petition for appeal and asst. of errors is hereby admitted this 29 day of Nov., 1916.

JOHN W. PRESTON,
CGH.

U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Nov. 29, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [17]

In the District Court of the United States, in and for the Northern District of California, Southern Division, Division No. 1.

No. 16,104.

In the Matter of MOK NUEY TAU on Habeas Corpus.

Order Allowing Petition for Appcal (and Releasing on Bond).

On this 29th day of November, 1916, come Mok Nuey Tau, the detained herein, by Mok Jock, the petitioner herein, both of whom are appellants herein, by their attorney, George A. McGowan, Esquire, and having previously filed herein, did present to this Court their petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by them, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, the Court hereby allows the appeal herein prayed for, and orders execution and remand stayed pending the hearing of the said case in the United States Circuit Court of Appeals for the Ninth Circuit, that the appellant, Mok Nuey Tau, may be released upon bond in the sum of One Thousand Dollars (\$1,000) and

that he remain within the United States, and render himself in execution of whatever judgment is finally entered herein at the termination of said appeal, and that the United States Marshal for this District is authorized to take the detained into [18] his custody for the purpose of effecting his release upon said bond.

Dated San Francisco, California, November 29th, 1916.

M. T. DOOLING,
U. S. District Judge.

[Endorsed]: Filed Nov. 29, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [19]

(Citation on Appeal—Copy.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to EDWARD WHITE, Commissioner of Immigration, Port of San Francisco, and to JOHN W. PRESTON, Esq., U. S. Attorney for the Northern District of California, his Attorney herein, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, Division No. 1, wherein Mok Nuey Tau and Mok Jock are appellants, and you are appellee, to show cause, if

any there be, why the decree rendered against the said appellants, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, Southern Division, Div. #1, this 1st day of December, A. D. 1916.

M. T. DOOLING,
United States District Judge.

Service of the within Citation on Appeal and receipt of a copy thereof is hereby admitted this 1st day of December, 1916.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: Filed Dec. 1, 1916. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [20]

(Appearance Bond.)

MASSACHUSETTS BONDING AND INSURANCE COMPANY.

Home Office, Boston, Massachusetts.

(CHINESE PICTURE)

United States of America,
Northern District of California,
Southern Division, Division No. 1.—ss.

BE IT REMEMBERED, That, on the — day of December, 1916, before me, Thos. E. Hayden, United States Commissioner, of the United States District Court for the Northern District of Califor-

nia, at San Francisco, personally appeared Mok Nuey as Principal, and Massachusetts Bonding and Insurance Company, a corporation, organized and existing under the laws of the Commonwealth of Massachusetts, as surety, and jointly and severally acknowledged themselves to be indebted to the United States of America, in the sum of One Thousand (1,000) Dollars, lawful money of the United States, to be levied and made out of their respective goods, chattels, lands and tenements, to the use of the said United States.

THE CONDITION of the above recognizance is such that WHEREAS there was presented on behalf of the said principal, Mok Nuey, a petition for a writ of *habeas corpus* and on the 29th day of November, 1916, the Court made its order that said Mok Nuey be released from his detention during the further pendency of said petition for a writ of *habeas corpus* and until the further order of the Court in the premises, upon giving a bond in the sum of One Thousand (1,000) Dollars;

NOW, THEREFORE, if said Mok Nuey shall personally appear at the District Court of the United States for the Northern District of California, Southern Division, First Division No. 1, at any time that he may be required to answer and render himself amenable to any and all further orders and processes in the premises and not depart from the said Court, without leave first obtained, and, if ordered remanded into the custody whence taken, [21] will surrender himself in execution thereof,

then this obligation to be null and void; otherwise to remain in full force and virtue.

MOK NUEY.

MASSACHUSETTS BONDING AND INSURANCE CO.

[Surety Seal] By FRANK M. HALL,
Attorney in Fact.

Taken and acknowledged before me on the day and year first above written.

[Commissioner Seal]

THOMAS E. HAYDEN,
United States Commissioner, Northern District of California, South. Division, at San Francisco.

Form of bond and sufficiency of the surety is hereby approved.

CASPER A. ORNBAUN,
Asst. U. S. Atty.

[Endorsed]: Filed Dec. 9, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [22]

District Court of the United States, in and for the Northern District of California, Southern Division, First Division.

No. 16,104.

In the Matter of the Application of MOK NUEY TAU, on Habeas Corpus.

Stipulation and Order Respecting Withdrawal of Immigration Record.

IT IS HEREBY STIPULATED and agreed by and between the attorney for the petitioner and

appellant herein, and the attorney for the respondent and appellee herein, that the original immigration record in evidence and considered as part and parcel of the petition for a writ of *habeas corpus* upon hearing of the demurrer in the above-entitled matter, may be withdrawn from the files of the clerk of the above-entitled court and filed with the clerk of the United States Circuit Court of Appeals, in and for the Ninth Judicial Circuit, there to be considered as part and parcel of the record on appeal in the above-entitled case with the same force and effect as if embodied in the transcript of the record and so certified to by the clerk of this court.

Dated San Francisco, California, January 15th, 1917.

GEO. A. MCGOWAN,

Attorney for Petitioner and Appellant.

JNO. W. PRESTON,

United States Attorney for the Northern District of California,

Attorney for Respondent and Appellee. [23]

Order.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said immigration record therein referred to, may be withdrawn from the office of the clerk of this court and filed in the office of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by the clerk of this court.

Dated San Francisco, California, January 15, 1917.

M. T. DOOLING,
United States District Judge.

Due service and receipt of a copy of the within stipulation and order is hereby admitted this 15th day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jan. 15, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [24]

*District Court of the United States, in and for the
Northern District of California, Southern Divi-
sion, First Division.*

No. 16,104.

In the Matter of the Application of MOK NUEY
TAU, on Habeas Corpus.

Order Extending Time to Docket Case.

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the appellant herein, it is hereby ordered that the time within which the record in the above-entitled cause may be docketed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit is hereby extended for a period of twenty days from and after the date hereof.

Dated San Francisco, California, December 27th,
1916.

WM. H. HUNT,
United States Judge.

Due service and receipt of a copy of the within
order is hereby admitted this 27th day of Dec., 1916.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Dec. 27, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [25]

*District Court of the United States, in and for the
Northern District of California, Southern Divi-
sion, First Division.*

No. 16,104.

In the Matter of the Application of MOK NUEY
TAU, on Habeas Corpus.

Order Extending Time to Docket Case.

Good cause appearing therefor, and upon motion
of George A. McGowan, attorney for the appellant
herein, it is hereby ordered that the time within
which the record in the above-entitled case may be
docketed in the office of the clerk of the United
States *Circuit of Appeals* for the Ninth Circuit is
hereby extended for a period of twenty (20) days
from and after the date hereof.

Dated San Francisco, California, January 12th,
1917.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Filed Jan. 12, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [26]

*District Court of the United States, in and for the
Northern District of California, Southern Divi-
sion, First Division.*

No. 16,104.

In the Matter of the Application of MOK NUEY
TAU, on Habeas Corpus.

(Order Extending Time to Docket Case.)

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the appellant herein, it is hereby ordered that the time within which the record in the above-entitled cause may be docketed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, is hereby extended for a period of thirty (30) days from and after the date hereof.

Dated San Francisco, California, January 31st,
1917.

M. T. DOOLING,
United States District Judge.

The foregoing extension of time is hereby stipulated and agreed to by and between the counsel for the respective parties hereby.

JNO. W. PRESTON,
United States Attorney for the Northern District of
California,

Attorney for Petitioner and Appellant.

GEO. A. MCGOWAN,
Attorney for Petitioner and Appellant.

[Endorsed]: Filed Jan. 31, 1917. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [27]

**Certificate of Clerk U. S. District Court to
Transcript on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify the foregoing 27 pages, numbered from 1 to 27, inclusive, to contain a full, true and correct transcript of certain records and proceedings, in the Matter of Mok Nuey Tau, on Habeas Corpus, No. 16,104, as the same now remain on file and of record in the office of the clerk of said District Court; said transcript having been prepared pursuant to and in accordance with the praecipe on file herein, (copy of which is embodied in this transcript), and the instructions of the attorney for petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Twelve Dollars and Twenty Cents (\$12.20), and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation on appeal, issued herein, page 29.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 13th day of February, A. D. 1917.

[Seal]

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [28]

(Citation on Appeal—Original.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco, and to JOHN W. PRESTON, Esq., U. S. Attorney for the Northern District of California, His Attorney Herein, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, Division No. 1, wherein Mok Nuey Tau and Mok Jock are appellants and you are appellee, to show cause, if any there be, why the decree rendered against the said appellants, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, Southern Division, Div. #1, this 1st day of December, A. D. 1916.

M. T. DOOLING,
United States District Judge. [29]

[Endorsed]: No. 16,104. United States District Court for the Northern District of California, South-

ern Division, Division #1. In re Mok Nuey Tau, etc., Appellants, vs. Edward White, Commissioner of Immigration. Citation on Appeal. Filed Dec. 1, 1916. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk.

Service of the within Citation on Appeal and receipt of a copy thereof is hereby admitted this 1st day of December, 1916.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: No. 2944. United States Circuit Court of Appeals for the Ninth Circuit. Mok Nuey Tau, by Mok Jock, Appellant, vs. Edward White, as Commissioner of Immigration at the Port of San Francisco, California, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed March 1, 1917.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals,
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

Certificate of Clerk U. S. District Court to Original Exhibits.

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the accompanying

exhibits, namely, Respondent's Exhibits "A" and "B," are original exhibits introduced and filed in the Matter of Mok Nuey Tau, on Habeas Corpus, No. 16,104, and are herewith transmitted to the United States Circuit Court of Appeals, for the Ninth Circuit, as per order of this Court, a copy of which is embodied in the transcript on appeal herewith.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 13th day of February, A. D. 1917.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

CMT.

[Endorsed]: No. 16,104. U. S. District Court, Northern District of California, First Division. In the Matter of Mok Nuey Tau, on Habeas Corpus. Certificate of Clerk, U. S. District Court, to Original Exhibits.

No. 2944. United States Circuit Court of Appeals, for the Ninth Circuit. Certificate of Clerk U. S. District Court to Original Exhibits. Filed Mar. 1, 1917. F. D. Monckton, Clerk.